

Introduced by Senator Kuehl

February 15, 2002

An act add to Section 65850.3 to the Government Code, and to add Chapter 11 (commencing with Section 115310) to Part 9 of Division 104 of the Health and Safety Code, relating to radiation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1444, as introduced, Kuehl. Radiation: contamination.

(1) Existing law prohibits a city or county from finding that an application for a development project is complete or from approving a development project, or a building permit for a project that does not require a development permit other than a building permit, in which a regulated substance, as defined, will be present in a process in quantities greater than the applicable threshold quantity.

This bill would prohibit a city or county agency from planing, zoning, or approving, at any site where a partial or full nuclear meltdown has occurred, as defined, any residential use, or any use involving the operation of a school or child day care facility.

(2) The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the state department from issuing a license to receive radioactive material for disposal on land unless specified requirements are satisfied.

This bill would prohibit any person from selling, transferring, or leasing a site, soil, or structure with residual radioactive contamination for any subsequent land use until the contamination has been removed and transferred to a licensed radioactive waste disposal facility or specified hazardous waste disposal facility, except as specified. The bill would require any person subject to this prohibition to use thorough and



rigorous monitoring of the site, soil, and structures involved, using best available techniques, equipment, and methodology to provide high assurance that any residual contamination will be identified and to remove any contamination at levels above background, except as specified. The bill would provide that if the department allows any residual radioactivity to remain at a site, soil, or structure, the person would be required to include a perpetual deed restriction for the property of that site, soil, or structure.

(3) The bill would declare that the provisions of the bill are severable and if any provision of the bill or its application is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65850.3 is added to the Government
2 Code, to read:

3 65850.3. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Child day care facility” has the same meaning provided
6 by Section 1596.750 of the Health and Safety Code.

7 (2) “Partial or full nuclear reactor meltdown” means an event
8 at a nuclear powerplant that results in more than 2 percent of the
9 fuel elements experiencing any melting of fuel or cladding or
10 fuel-cladding eutectic.

11 (3) “School” means any public or private school used for the
12 purpose of the education of more than 12 pupils in kindergarten or
13 any grades 1 to 12, inclusive.

14 (4) “Site” means a parcel of land where a partial or full nuclear
15 reactor meltdown occurs, and all contiguous parcels of land that
16 were ever owned or operated by the same entity that owned or
17 operated the site of the nuclear meltdown.

18 (b) Notwithstanding any other provision of law, no city or
19 county agency may plan, zone, or approve, at any site where a
20 partial or full nuclear meltdown has occurred, any residential use,
21 or any use involving the operation of a school or child day care
22 facility.



SEC. 2. Chapter 11 (commencing with Section 115310) is added to Part 9 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11. RADIOACTIVE CONTAMINATION PREVENTION ACT

115310. This chapter shall be known and may be cited as the “Radioactive Contamination Prevention Act.”

115311. For purposes of this chapter, the following definitions shall apply:

(a) “Background” means the local level of radioactivity from nature of like materials without enhancement by human activity, plus the local levels of fallout from nuclear weapons testing and the local deposition of fallout from past nuclear accidents at locations elsewhere in the world, including, but not limited to, the nuclear accident in Chernobyl.

(b) “Department” means the State Department of Health Services.

(c) “NORM” means naturally occurring radioactive material produced in oil drilling and geothermal production.

(d) “Radioactive waste” means any discarded radioactive material with radioactivity above the background level when measured with the best available technology.

(e) “Radioactive material” as the same meaning has defined in subdivision (f) of Section 114710.

(f) “TENORM” means technologically enhanced naturally occurring radioactive material produced in oil drilling and geothermal production.

115303. (a) Except as provided in subdivision (b), no person shall sell, transfer, or lease a site, soil, or structure with residual radioactive contamination for any subsequent land use, until the contamination has been removed pursuant to subdivision (c) and transferred to a disposal facility specifically licensed or permitted for that type of radioactive waste pursuant to Chapter 8 (commencing with Section 114960), or, for NORM or TENORM radioactive wastes, a hazardous waste facility issued a hazardous waste facilities permit pursuant to Section 25200 that expressly authorizes the facility to accept NORM and TENORM radioactive waste.

1 (b) A person may sell, transfer, or lease a site, soil, or structure
2 with residual radioactive contamination if the department
3 determines that the remaining risk to a member of the public from
4 that residual radioactivity would not exceed a one in a million risk
5 of cancer or any other serious health effect. In calculating risk for
6 this subdivision, the department shall use the most restrictive
7 potential land use, based on the premise that any land use
8 restriction may eventually fail. When more than one generally
9 accepted model or technique is available, the department shall use
10 the model or technique that generally leads to the most protective
11 outcome.

12 (c) Any person subject to this section shall use thorough and
13 rigorous monitoring of the site, soil, and structures involved, using
14 best available techniques, equipment, and methodology, to
15 provide a high assurance that any residual contamination is
16 identified. The person shall remove any contamination at a level
17 above background, or, if the alternative remediation method
18 specified in subdivision (b) is chosen, above the one in a million
19 risk level, and the amount of contamination shall be removed
20 without averaging over any larger area.

21 (d) If the department allows any residual radioactivity to
22 remain at a site, soil, or structure pursuant to this section, the
23 person subject to this section shall include a perpetual deed
24 restriction for the property of that site, soil, or structure that
25 identifies, in detail, the location, nature, type, and concentration
26 and amount of radioactivity and contaminated materials, and that
27 bars, in perpetuity, the transfer offsite of that contaminated
28 material to a facility that is not specifically licensed or permitted
29 pursuant to Chapter 8 (commencing with Section 114960) or, for
30 NORM or TENORM radioactive wastes, a hazardous waste
31 facility issued a hazardous waste facilities permit pursuant to
32 Section 25200 that expressly authorizes the facility to accept
33 NORM and TENORM radioactive waste.

34 (e) With regard to any enforcement action regarding a site, soil,
35 or structure that is subject to this section, there is a rebuttable
36 presumption that the site, soil, or structure is contaminated, and the
37 person handling the material shall bear the burden of proof to
38 demonstrate, with high confidence, that the site, soil, or structure
39 is not contaminated.



1 (f) Notwithstanding any provision of law, including
2 subdivision (c) of Section 115060, the department shall not adopt
3 or grant any exemption from the requirements of this chapter.

4 SEC. 3. The provisions of this act are severable. If any
5 provision of this act or its application is held invalid, that invalidity
6 shall not affect other provisions or applications that can be given
7 effect without the invalid provision or application.

